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5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT SEATTLE

8 DAVID RUSSELL MYRLAND,

9 Petitioner,

10 v.

11                   UNITED STATES OF AMERICA,

12 Respondent.

Case No. C15-0100RSM

13  
14                   ORDER GRANTING RESPONDENT'S  
15 MOTION TO DISMISS

16                   This matter comes before the Court on Respondent's Motion to Dismiss. Dkt. #4.  
17 Petitioner, David Myrland, brought a motion/petition pursuant to 28 U.S.C. § 2255 to Vacate,  
18 Set Aside, or Correct Sentence, alleging that his sentence is void because of actual innocence,  
19 and alleging that the crime of which he was convicted is invalid because the statute under  
20 which he was convicted is void. Dkt. #1. In response, the Government has moved to dismiss  
21 the motion/petition, arguing that it is untimely, having been filed after the one-year statute of  
22 limitations; and, in the alternative, that Petitioner is barred from raising these arguments now  
23 because they were considered (and rejected) on direct appeal to the Ninth Circuit Court of  
24 Appeals. Dkt. #4.

Petitioner has failed to respond to the Government's motion.<sup>1</sup> "If a party fails to file papers in opposition to a motion, such failure may be considered by the court as an admission that the motion has merit." Local Rule CR 7(b)(2). As a result, Petitioner has also failed to meet any threshold requirement demonstrating evidence of actual innocence or that the one-year time bar should be waived in his case. Likewise, he fails to make any showing with respect to why his previously-adjudicated claims should be heard on this collateral attack.

Accordingly, the Court hereby finds and ORDERS that Respondent's Motion to Dismiss (Dkt. #4) is GRANTED and this case is now CLOSED.

DATED this 20th day of February 2015.

  
RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE

<sup>1</sup> Because Petitioner's counsel has continued to improperly file documents in the related criminal case, CR11-0057RSM-1, rather than the instant civil matter, the Court has examined both dockets for any response, but has found none. Petitioner's counsel is reminded again that any documents related to the instant matter MUST be properly filed under the civil cause matter or they will not be considered by the Court.